

# STATE OF NEW YORK

6047

2021-2022 Regular Sessions

## IN ASSEMBLY

March 5, 2021

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to the mailing and receipt of absentee ballots; and to provide for the repeal of such provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 8-412 of the election law, as  
2 amended by chapter 140 of the laws of 2020, is amended to read as  
3 follows:

4 1. The board of elections shall cause all absentee ballots received by  
5 it before the close of the polls on election day and all ballots  
6 contained in envelopes showing a cancellation mark of the United States  
7 postal service or a foreign country's postal service, or showing a dated  
8 endorsement of receipt by another agency of the United States govern-  
9 ment, with a date which is ascertained to be not later than the day of  
10 the election and received by such board of elections not later than  
11 seven days following the day of election to be cast and counted [~~except~~  
12 ~~that the absentee ballot of a voter who requested such ballot by letter,~~  
13 ~~rather than application, shall not be counted unless a valid application~~  
14 ~~form, signed by such voter, is received by the board of elections with~~  
15 ~~such ballot~~]. For purposes of this section, any absentee ballot received  
16 by the board of elections by mail that does not bear or display a dated  
17 postmark shall be presumed to have been timely mailed or delivered if  
18 such ballot bears a time stamp of the receiving board of elections indi-  
19 cating receipt by such board on the day after the election.

20 § 2. Subparagraph (iii) of paragraph (b) of subdivision 2 of section  
21 9-209 of the election law, as amended by chapter 104 of the laws of  
22 2010, is amended to read as follows:

23 (iii) If such a federal write-in absentee ballot is received after  
24 election day, the envelope in which it is received must contain: (A) a

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 cancellation mark of the United States postal service or a foreign coun-  
2 try's postal service; (B) a dated endorsement of receipt by another  
3 agency of the United States government; or (C) if cast by a military  
4 voter, the signature and date of the voter and one witness thereto with  
5 a date which is ascertained to be not later than the day [~~before~~] of the  
6 election [~~day~~].

7 § 3. Subdivision 1 of section 10-114 of the election law, as amended  
8 by chapter 165 of the laws of 2009, is amended to read as follows:

9 1. The board of elections shall cause all military ballots received by  
10 it before the close of the polls on election day and all ballots  
11 contained in envelopes showing a cancellation mark of the United States  
12 postal service or a foreign country's postal service, or showing a dated  
13 endorsement of receipt by another agency of the United States government  
14 or are signed and dated by the voter and one witness thereto, with a  
15 date which is ascertained to be not later than the day [~~before~~] of the  
16 election and received by such board of elections not later than seven  
17 days following the day of a primary election and not later than thirteen  
18 days following the day of a general or special election to be cast and  
19 counted.

20 § 4. Subdivision 1 of section 11-110 of the election law, as amended  
21 by chapter 99 of the laws of 1989, is amended to read as follows:

22 1. To be counted, any ballot cast under the provisions of this article  
23 must be received by the appropriate board of elections not later than  
24 the close of the polls on election day except that all ballots contained  
25 in envelopes showing a cancellation mark of the United States postal  
26 service, or a foreign country's postal service with a date which is  
27 ascertained to be not later than the day [~~before~~] of the election, shall  
28 be cast and counted if received by the board of elections not later than  
29 seven days following the day of election.

30 § 5. Section 11-212 of the election law, as amended by chapter 163 of  
31 the laws of 2010, is amended to read as follows:

32 § 11-212. Special federal ballots; deadline for receipt. All special  
33 federal ballots received by the board of elections before the close of  
34 the polls on election day shall be retained by the board of elections  
35 and cast and canvassed pursuant to section 9-209 of this chapter. All  
36 ballots contained in envelopes showing a cancellation mark of the United  
37 States postal service or a foreign country's postal service, or showing  
38 a dated endorsement of receipt by another agency of the United States  
39 government, with a date which is ascertained to be not later than the  
40 day [~~before~~] of the election, shall be cast and counted if received by  
41 the board of elections not later than seven days following the day of a  
42 primary election or thirteen days following the day of a general or  
43 special election [~~except that the special federal ballot of a voter who  
44 requested such ballot by letter, rather than application, shall not be  
45 counted unless a valid application form, signed by such voter, is  
46 received by the board of elections with such ballot~~]. All ballots  
47 received by the board of elections and all federal write-in ballots  
48 received from special federal voters not later than seven days following  
49 the day of a primary election or thirteen days following the day of a  
50 general or special election, shall be retained at the board and shall be  
51 cast and canvassed in the same manner as other ballots retained by such  
52 board.

53 § 6. This act shall take effect immediately; provided, however, that  
54 section one of this act shall expire and be deemed repealed on December  
55 31, 2021.